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**Letter dated 16 October 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council**

I write with reference to my letter of 21 May 2003 (S/2003/594).

The Counter-Terrorism Committee has received the attached third report from Romania submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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## Annex

### Letter dated 13 October 2003 from the Permanent Representative of Romania to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

I have the honour to send you enclosed herewith the answer of the Government of Romania to the specific questions of the Counter-Terrorism Committee, as set out in the letter dated 16 May 2003 (see enclosure).

(*Signed*) Mihnea **Motoc**
Ambassador

**Enclosure**

**1. Implementation measures**

**1.1. The CTC has agreed on further questions and comments for the consideration of the Government of Romania with regard to the implementation of the Resolution, as set out in this section.**

**1.2. The effective implementation of sub-paragraph 1(c) requires the States to freeze, without delay, the funds and other financial assets or economic resources, held in Romania, of persons and entities, which commit or attempt to commit or facilitate the commission of terrorist acts, either inside the territory of Romania or outside. The first report of Romania states (at page 6) that the legislative measures taken in pursuance of Security Council Resolution (1373) are also relevant to sub-paragraph 1(c). The CTC would be grateful to be informed whether the current legislative provisions, in particular articles 163-167 of the Criminal Procedure Code, enable the authorities in Romania, to freeze the funds, financial assets and/or economic resources held in Romania by: a) persons suspected of having terrorist links but who do not feature on any UN LIST; and by b) by residents or non-residents who are suspected of having terrorist links, at the request of another State.**

**A. a.** The legal provisions on freezing the funds, financial assets and/or other economic sources, are applied to all the persons suspected to have terrorist links, even if they are not included in any UN lists, or in the lists drawn up by the Ministry of Public Finances, pursuant to the Government Emergency Ordinance no. 159/2001 (approved by Law no. 466/2002):

*"ART. 4 (1) The Ministry of Foreign Affairs, the Ministry of Public Finances, the Ministry of Justice, the Ministry of Administration and Internal Affairs, the Ministry of National Defence, the Ministry of Communications and Information Technology, the Ministry of Public Works, Transports and Dwelling, the Prosecutor's Office attached to the Supreme Court of Justice, the Romanian Intelligence Service, the Foreign Intelligence Service, the National Office for Preventing and Fighting Money Laundering, the Chamber of Trade and Industry of Romania and of Bucharest, the National Bank of Romania, the National Committee of the Exchange Securities, and the Insurance Survey Committee draw up and update lists with natural and legal persons suspected for having committed or financed the acts of terrorism, others than those stipulated in the Annex to the present emergency ordinance. These lists are transmitted to the Ministry of Public Finances.*

...

*ART. 5 The Ministry of Public Finances draws up a final list, based upon the lists stipulated in art. 4 (1), and submits it for approval by Government decision."*

b. Residents or non-residents suspected to have terrorist links might also be included in the list at the request of another state, after the examination of the information by the Romanian competent authorities.

**1.3. It is stated that Romania is in the process of adopting a law on the ratification of the Convention for the Suppression of the Financing of Terrorism. The supplementary report states that there are no vigilance or reporting obligations for financial intermediaries in Romania, except the obligation to report suspected money laundering operations. The CTC would be grateful to receive an outline of the provisions implementing the Convention in Romanian law. Article 18 of the Convention requires States to impose obligations on financial institutions and other professionals, engaged in financial transactions, to report unusual or suspicious transactions. The CTC would therefore be particularly interested in receiving a copy of the legal provisions which give effect to article 18 of the Convention for the Suppression of the Financing of Terrorism. The CTC would be grateful to be provided with examples, if any, of successful seizure of the assets of suspected terrorists under Romania's current legal provisions.**

**A.** Romania ratified, by the Law 623/2002, the International Convention of the suppression of the financing of terrorism (adopted in New York, on the 9th of December 1999). According to art. 11 (2) of the Romanian Constitution: "*The treaties ratified by the Parliament, according to the law, are part of the national law.*"

The provisions of the national legislation relevant to the provisions of art. 18 of the UN Convention, are found in the Government Emergency Ordinance Nr. 159/2001, on preventing and fighting the use of financial-banking system to finance terrorist acts (approved by the Law no. 466/2002). The provisions of art. 11 are concerning the general obligation to report the suspicious transactions:

*"The ministries and institutions with responsibilities in implementing the provisions herein, have to notify the Romanian Intelligence Service about the natural and legal persons suspected of having committed or financed terrorist acts."*

**1.4. It is stated, in reply to the question on the measures available to regulate alternative money transfer agencies (at page 6 of the supplementary report) that there is no specific legislation available on the matter. The CTC would be content to know what steps Romania proposes taking to regulate alternative money transfer agencies to ensure that they are not used as means to transfer funds for terrorist purposes.**

**A.** Art. 8 of the Law Nr. 656/2002, for preventing and sanctioning money laundering, lists all the categories of natural or legal persons who have responsibilities, under this law, as follows:

*"ART. 8 - Under the incidence of the present law are:*

*a) the banks, the foreign banks branches and the credit institutions;*

*b) the financial institutions, like: investment funds, investment companies, investment administration companies, deposit and custody companies; securities exchange companies, pension funds and other similar funds, which accomplish the following operations: the crediting, including, among others, consumption credit, mortgage credit, factoring, financing of trade transactions, including lumping, financial leasing, payment operations, issue and administration of some means of payment, credit cards, travelling cheques and other similar ones, granting or assuming of guarantees and subscription of engagements, transactions on proper account or on the account of the customers through money market instruments, cheques, payment orders, deposit certificates etc., currency exchange, derived financial products, financial instruments connected to the currency exchange or the interests rate, exchange securities, the participation of the issue of shares and offering of services regarding these issues, advice granted to enterprises in the structure problems of the capital, industrial strategy, advice and services in the field of the enterprises, mergers and acquisitions, brokerage on the inter-banks markets, portfolios administration and advice in this field, custody and administration of the exchange securities;*

*c) the insurance and reinsurance companies;*

*d) the economic agents who undertake activities of gambling, pledge, sales-purchases of art objects, precious metals and jewels, dealers, tourism, services and any other similar activities that imply putting into circulation of securities;*

*e) the natural and legal persons who grant specialized legal services, notarial, accounting, financial-banking assistance, with the observance of the legal provisions concerning the professional secret;*

*f) the persons with attributions in the privatisation process;*

*g) the post offices and the legal persons who perform money transmission services, in lei or in foreign currencies;*

*h) real estate agents;*

*i) state treasury;*

*j) the currency exchange offices;*

***k) any other natural or legal person, for acts and facts committed outside the financial-banking system."***

The breach of the obligations stipulated by law may constitute contravention or offence, as the case may be.

**1.5. The supplementary report states (at page 7) that the recruitment of members to terrorist groups could be punished under article 3 of the Government Emergency Ordinance, as it represents a form of agreement and instigation. The supplement report further states that the deceptive recruitment activities are not specifically criminalized under Romanian law. Sub/paragraph 2 (a) of the Resolution requires States, inter alia, to suppress the recruitment of persons to terrorist groups. The CTC would be grateful to learn how, in the absence of specific provisions prohibiting the recruitment of persons to terrorist groups, operating either inside its territory or abroad, Romania proposes to comply with the sub-paragraph.**

**A.** The case of recruiting persons for committing terrorist acts is being provided for in art. 3 of the Government Emergency Ordinance Nr. 141/2001, for the sanction of terrorist acts and of infringements of the public order (approved with amendments and completions by the Law Nr. 472/2002).

At the same time, the draft of the new Criminal Code (approved during the Government session of May 21st, 2003, and currently under debate at the Parliament) contains a special section dealing with "Terrorism-related crimes and offences". The parliamentary debates have taken into consideration the express incrimination of the recruiting of persons for committing terrorist acts.

**1.6. The effective implementation of sub-paragraph 2 (d) requires member States to prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens. It is noted from the reply to this sub-paragraph in the first report (at page 13) that there are no specific provisions in current Romanian law dealing with such acts. The CTC would be grateful for information as to how Romania proposes remedying this matter.**

**A.** The special regulations adopted in 2001 (Government Emergency Ordinance Nr. 141/2001 and Government Emergency Ordinance Nr. 159/2001) are meant to prevent the financing, facilitating or committing terrorism acts, by using the national territory, against other states or their citizens.

**1.7. The CTC would be pleased to know whether the provision of assistance in criminal investigations or in judicial proceedings, under the Law on International Judicial Assistance, at the request of another State (Law no. 704/2001), is contingent on the existence of a bilateral agreement with Romania.**

**A.** Granting international legal assistance in the criminal field, at the request of a State, is not contingent on the existence of a bilateral agreement between that State and Romania, as provided for in art. 4 and art. 5 of the Law Nr. 704/2001, on the international legal assistance in criminal matters, provide:

*"Art. 4 The pre-eminence of the international law*

*(1) This law is to be enforced pursuant and for the implementation of the norms dealing with the legal assistance in criminal matters, stemming from international conventions that Romania is a party to, which it supplements for the non-regulated points.*

*(2) Where assistance is requested by an international criminal court or by a public international organisation, according to the provisions of the relevant international instruments, the provisions of this law may correspondingly be applied, if necessary.*

*Art. 5 International courtesy*

***(1) In the absence of any international convention, judicial assistance may be granted according to the international courtesy, at the request***

***transmitted on diplomatic way by a third State and with the written confirmation of the reciprocity given by the competent authority of that State."***

**1.8. The CTC would be pleased to be informed of the progress in regard the ratification and implementation by Romania of the International Convention for the Suppression of the Financing of Terrorism and the International Convention for the Suppression of Terrorist Bombings.**

**A.** Romania ratified, by Law Nr. 623/2002, the International Convention for the Suppression of the Financing of Terrorism, adopted in New York on the 9th of December 1999, and implemented its provisions as shown above.

As to the stage of ratification of the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on the 15th of December 1997, the ratification process is under way.

**1.9. The CTC notes that for the purposes of extradition to States which are parties to the European Convention on Terrorism, Romania does not consider the offences which are mentioned in articles 1 and 2 of the European Convention on Terrorism, to constitute political offences or offences connected to political offences or offences inspired by political reasons. The CTC would be pleased to learn whether Romania applies the same principles in relation to extradition cases involving States which are not parties to the European Convention.**

On the 15th of May 2003 Romania signed the Protocol to the 1977 European Convention for the Suppression of Terrorism, which includes provisions regarding the denial of extradition for political reasons. To this effect, measures are to be taken to amend the Law Nr. 296/2001, on extradition, and any other regulations on the matter.